

U. H. Retornable last C<sup>t</sup> & the Peticon<sup>r</sup> appearing & having noe  
Journal Attorney put in noe plea to the Scire facias whereupon Execu-  
original cōn is since issued for 2000<sup>ls</sup> Sterl

Ordered th<sup>t</sup> a Writ of Error be graunted to the Peticōn<sup>r</sup> Re-  
tornable in the upper House of Assembly the Twentie Sixth  
day of this Instant month of May

Signed

Charles Calvert	Sealed
Philip Calvert	Sealed
William Calvert	Sealed
Baker Brooke	Sealed

And the same day to wit the 26<sup>th</sup> day of May afores<sup>d</sup> before  
his s<sup>d</sup> Lo<sup>p</sup> in his s<sup>d</sup> upper House of Assembly came the afores<sup>d</sup>  
Jo. Balley by the s<sup>d</sup> Rob<sup>t</sup> Ridgley his Attorney & Assigneth  
for error as followeth (viz<sup>t</sup>)

That in the Record & Processe afores<sup>d</sup> & in the Rendring of  
Judgm<sup>t</sup> afores<sup>d</sup> & graunting Scire facias thereupon it is mani-  
fest erroneious in this th<sup>t</sup> the Writ of Capias issueing out of  
his Lordships Pro<sup>all</sup> C<sup>t</sup> upon w<sup>ch</sup> the s<sup>d</sup> Jo. Balley was arrested doth  
not appeare upon Record nor any memorandū or notice there-  
of taken but only mencōned in the Peticōn of the s<sup>d</sup> Balley to  
his Lo<sup>ps</sup> Justices of the Pro<sup>all</sup> C<sup>t</sup> the 8<sup>th</sup> of December 1668.  
Whereas the s<sup>d</sup> Writ of Capias ought to have been duely en-  
tered upon record th<sup>t</sup> the s<sup>d</sup> Bally or his Attorney might have  
had recourse thereto & if to them it should have seemed Con-  
venient they might have Pleaded in Abatem<sup>t</sup> of the s<sup>d</sup> Writ

Allsoe it is Erronious in this in th<sup>t</sup> it is said The defend<sup>t</sup> still  
alleadging th<sup>t</sup> his Papers are out of his Possession &c. It is  
Ordered the defend<sup>t</sup> have time untill the next C<sup>t</sup> to Put in his  
Plea &c & further th<sup>t</sup> he doe remaine in the Sherrifes Custody  
&c. Whereas it doth not appeare in the Record whether the s<sup>d</sup>  
Balley appeared upon his bayle or whether he was by the  
p. 21 Sherrife brought to the Barre in Case he did not give Speciall  
Bayle or other [w<sup>ch</sup> in the] Record is not mencōned then a  
Comittitur in due for[m ought] to have been Entered nor doth  
there appeare up[on the Record] any Imparlance of the s<sup>d</sup>  
Balley to the next C<sup>t</sup> [w<sup>ch</sup> in Case] he filed not his Plea then  
ought to have been Cra[ved by him] & taken notice of upon  
Record

Allsoe It is Erronious in this in th<sup>t</sup> it is said This [Cause]  
Respited &c. And then is Entered the Plea [of the] s<sup>d</sup> [Jo.]  
Balley Whereas after the Imparlance & Comittitur before  
Specified the declaracōn of the s<sup>d</sup> Stapleford ag<sup>t</sup> [the] s<sup>d</sup> Balley  
should have been entred upon the Record w<sup>ch</sup> [s<sup>d</sup>] Declaracōn  
as allsoe the Capias afores<sup>d</sup> is wholly omitt[ed] whereby it is  
Impossible to know upon what Bond or for what sume the s<sup>d</sup>  
Balley was sued by the s<sup>d</sup> Staple[ford] or to what Bond the s<sup>d</sup>  
Balley Pleaded the s<sup>d</sup> Plea of non ē ffactum.